

Advocate

OFFICE OF CRIME VICTIMS ADVOCACY
QUARTERLY NEWSLETTER

Serving as a voice within state government for crime victims and their families

Victim Compensation: Justice and Public Safety Are Not Served Until Victims Are

"For too long, the victims of crime have been the forgotten persons of our criminal justice system. Rarely do we give victims the help they need or the attention they deserve. Yet the protection of our citizens—to guard them from becoming victims—is the primary purpose of our penal laws. Thus, each new victim personally represents an instance in which our system has failed to prevent crime. Lack of concern for victims compounds that failure."
—Ronald Reagan



made related to their cases, as well as to their lives.

In America today, we often speak of "criminal justice" and "juvenile justice" and even "community justice." Yet we seldom hear about "victim justice," which is at the very heart and soul of "justice" in our nation. If victims never reported crimes, we would not be able to identify and arrest violent offenders. If victims didn't

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In a speech originally published in the 2005 National Crime Victim Rights Week Resource Guide, the authors furthered former President Reagan's point. The illustrative speech asserts that an appropriate response to victims of crime is a component of justice itself. Following is an abbreviated version of the speech.



If you ask ten people on the street in our community what "justice" means to them, you might get ten different answers. If you ask ten victims of crime what "justice" means to them, it's likely a common theme will emerge. To victims and survivors of crime, justice simply means that they are treated with respect, that they are listened to and actually heard, and that they will have a voice in vital decisions that are

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cooperate as witnesses in criminal cases and juvenile adjudications, the guilty would remain free to harm again. And if victims didn't bravely speak out about the devastating impact of crime on them and those they love, few of us would fully realize the domino effect of crime that affects each and every one of us—that those being injured and assaulted and murdered are our mothers and fathers, sons and daughters, sisters and brothers, neighbors and friends.

In the aftermath of crime, there is shock and devastation, pain, trauma, and fear. There is confusion about what is happening now, and what will happen in the future. There is a path of justice that results from the simple act of service to victims and survivors of crime.

Yet, as many advocates are painfully aware, criminal legal processes and courtrooms do not often provide justice for the individuals we work with—it is a system designed to reduce the possibility of sending innocent people to prison—even at the expense of allowing guilty individuals to walk free. Because we understand this burden of the criminal justice system, we must also accept that the proof of how crimes affect individuals and communities cannot be fully vested in a criminal justice system response.

Community members must trust that should legal and civil systems fail to prevent a crime, those committed to restoring public safety will make all attempts to reduce the overall impact of the crime. Individuals should expect their lives to be made whole.

Justice isn't served until crime victims' most basic needs are identified—safety, housing, basic medical and mental health care, food and clothing for their children—and efforts both within and outside of the criminal justice

system, are made to meet these important needs.¹

In the past 25 years, there have been hundreds of millions of people in our nation who have been victimized by crime—women battered, children abused and traumatized, men and women assaulted, countless people murdered, and an entire nation devastated by senseless acts of terrorism against our people. It is in honor of all these victims and survivors of crime that we declare in a unified voice: justice isn't served until crime victims are.²

One of the many aspects of public safety is the support of victims of crime in their full recovery and in providing the necessary resources to victims to restore their well-being.

The obligation to serve victims of crime, as a cornerstone of justice, described by the Department of Justice, Office of Justice Programs, is not solely a federal obligation but rather is part of a state, county, city, and community obligation and commitment to public safety and to justice.

Thus, the State of Washington has an ethical obligation to the preservation of public safety and the protection of its citizens. One of the many aspects of public safety is the assistance to victims of crime in their full recovery by providing the necessary resources. By restoring their well being, victims may continue as productive and participatory members of society.

While community based programs throughout the state provide advocacy services, the burden of medical costs, therapy, and other direct expenses cannot in good faith be left as a burden to the crime victim. The State of Washington acknowledged the injustice of that burden by establishing the Crime Victim Compensation program as an instrument of the state to provide for the medical treatment, therapy, and other direct and allowable expenses of qualified victims of crime.

Overview of Compensation in Washington

The Washington Crime Victims Compensation programs, and others like it throughout the United States, were created to benefit victims who participate in the criminal justice system. State programs are administered independently; the majority of states fund their programs entirely through fees and fines charged against offenders convicted of crime rather than tax dollars. Washington State's Crime Victim Compensation program is a program of the Washington State Department of Labor and Industries. In their own words, CVC staff describe its beginning:

Washington's Crime Victims Compensation Program began primarily as the result of a series of editorials in the early 1970s in the state's two major newspapers. The theme of the editorials was that criminals were having their room and board and medical needs met by the state's prison system while victims were left with medical bills and other costs to pay because of the offender's crime. The Legislature deemed this unfair and in 1973 passed the Crime Victims Compensation Act.¹

The Crime Victims Compensation Program is a critical program of public safety. It is one of the most powerful and important methods for the state to balance its failure to prevent crime with its responsibility to protect its citizens. Restoring community members' basic needs actively restores public peace.

This program is so important to the criminal justice system and to the restoration of crime victims' well being that certain specific systems or entities are required to notify and assist with crime victim compensation applications. Hospitals are required to post public notices about CVC in their emergency rooms. Victim assistance coordinators in prosecutors' offices are required to assist victims in applying for benefits. Law enforcement is required to inform victims about crime victim compensation. Service providers who receive VOCA funds are also required to assist victims with their CVC applications.

Eligibility Requirements for CVC Benefits

To be eligible for Crime Victims Compensation benefits the crime must have occurred in Washington and must be a gross misdemeanor or felony. In

most cases, the crime must be reported within one year to law enforcement, and application for benefits must be received within two years of the police report filing date.

In addition, in order to be eligible for CVC benefits the victim must agree to provide reasonable cooperation with law enforcement to apprehend and convict the offender; the injury for which the victim is seeking benefits cannot be as a result of consent, provocation or incitement, and cannot be received in the commission of a felony crime. The victim is not eligible for benefits if they are incarcerated. Vehicular crimes must be vehicular assault, vehicular homicide, or a DUI.

Claims and Benefits

In 2004, there were a total of 7,191 claims received, of which 3,949 were for rape exams and 261 were fatality claims. The average caseload at Washington's CVC program is 282. Within 50 days, 88.9 percent of the claims at CVC are adjudicated.

Of the over 7,000 claims in 2004, 68 percent were allowed. Approximately one third of the claims were for children under 18.

Crime Victims Compensation is a payer of last resort for victim benefits. This means that the victim must exhaust all other available sources of public or private insurance before receiving CVC benefits.

Benefits CVC will assist with include:

- Medical bills (\$150,000 maximum)
- Time loss (\$15,000 maximum)
- Disability awards (\$30,000 maximum. Includes Time Loss and Vocational Rehabilitation)
- Limited pension (\$40,000 maximum)
- Vocational rehabilitation (\$5,000 maximum)
- Funeral bills (\$6,465.66 FY 2004)
- All co-pays and insurance deductibles

To find out more about Washington's Crime Victims Compensation program, call 1-800-762-3716 or visit their website at www.lni.wa.gov/ClaimsInsurance/CrimeVictims.

OCVA thanks Janice Deal from Crime Victims Compensation for providing information for this article.

On The Horns Of A Dilemma

In November, the Crime Victims Compensation Program (CVC) reported a projected shortfall of \$6 million by the end of the biennium (June 30, 2005). This year's budget is contentious because while we recognize the critical value of the compensation program, the Office of Crime Victims Advocacy (OCVA) works with mental health and medical service providers statewide whose ability to serve victims of crime has decreased because of reimbursement rates and coding issues at the CVC administrative level. Despite these issues, the current budget shortfall requires a significant message of support from our community. Victims depend on this program. Crime victims need advocates to speak up and work for their needs. Victims need the Crime Victims Compensation Program.

Problems with the Workers Compensation Model

Separate, but related issues arise from the use of workers' compensation coding and rates of payment in the crime victim compensation program. Worker's compensation uses the national CPT codes that are used to describe medical practice services. These do not necessarily transfer well or appropriately to the care structure that is intended to be available for victims of crime. Nor have the CPT codes kept up with the significant advances in forensic examination procedures or quality of care issues applicable to victims of crime. Variability of acceptance and adjudication of claims results in unpredictability and makes CVC less viable for providers than Medicaid. The absence of providers accepting CVC claimants reduces, and in some cases, eliminates services.

The CVC program is funded primarily from the Public Safety and Education Account (PSEA). The federal Victims of Crime Act (VOCA) also contributes to Washington's CVC program. Every two years the Legislature appropriates funds to each of the programs within the PSEA. For the most recent biennium, CVC received \$22.4 million, with an additional \$8.4 million from the federal VOCA fund. Over time, lawmakers have amended the CVC statute to require the program be managed within the appropriated amount. But this same statute also declared that benefits are to be provided to every eligible victim of crime. Limited funds to support the program and increasing numbers of eligible victims result in an expected dilemma for CVC.

To meet these conflicting demands, CVC reduced the reimbursement rate to mental health and medical service providers of CVC claimants by an average of 30%. Because of this, some therapists must decline new clients or terminate services with existing clients because they can't accept such a low reimbursement rate and maintain their practices. CVC also recently notified victims receiving benefits and providers that all payments might cease entirely as early as March of 2005. This grim announcement means that in-home medical care, allowable pension plans, and other benefits of individuals permanently affected by criminal acts would be suspended.

This news also impacts mental health services. After receiving notice of the current CVC crisis, victims who have received ongoing therapy with CVC benefits have felt forced to discontinue treatment early. The decision to terminate services early arose out of fears that they, individually, could not afford treatment without CVC. This fear has forced many victims to prematurely discontinue services to avoid any unnecessary financial burden. Additionally, therapists are more and more reluctant to continue services with victims whose claims have already been approved because of the unstable landscape of the program budget.

Yet, it is not only this decreased rate of reimbursement for mental health and medical providers that has resulted in fewer service options

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Linda's Story

Mid-January, Crime Victims Compensation sent letters to all victims and survivors currently receiving benefits from the program. In this letter, CVC outlines the imminent budget crisis and the potential for benefits to terminate as early as March 2005. Immediately following this letter, OCVA received many phone calls from concerned victims. The following letter represents one woman's thoughts and fears after receiving the notification.

To Whom it May Concern:

My husband was an innocent victim of a criminal assault in 1976, which resulted in his death on the same date. He was not found until about two weeks later in a drainage ditch near South Tacoma Way berry field.

The man was charged and convicted of premeditated first-degree murder in October 1976. Yet the man only served about thirteen years, and is now out, and free. He was sixteen at the time of the murder. The state waited until the 2nd of October when he turned seventeen and tried him as an adult.

My husband will never come home; but that man is now back in the community as a free person.

I have a statement in which my Crime Victims Compensation adjudicator wrote, "Your monthly pension benefit is payable until your death or remarriage, whichever first occurs." Based on this, I bought home for which I still have payments, taxes, flood insurance, home insurance, medical insurance, lights, water, etc. I have come to depend on this income for my livelihood, as I know that my husband would want me to have.

Sincerely,

Linda
Aberdeen, Washington

statewide. Separate, but related issues arise from the use of workers' compensation coding and rates of payment in the crime victim compensation program. Worker's compensation uses the national CPT codes that are used to describe medical practice services. These do not necessarily transfer well or appropriately to the care structure that is intended to be available for victims of crime. Nor have the CPT codes kept up with the significant advances in forensic examination procedures or quality of care issues applicable to victims of crime. Variability of acceptance and adjudication of claims results in unpredictability and makes CVC less viable for providers than Medicaid. The absence of providers accepting CVC claimants reduces, and in some cases, eliminates access to services.

Washington State has also seen an increase in uninsured individuals. As CVC is a payer of last resort, the clients applying for benefits from the program are likely to have no other personal, familial, or state insurance available to them.

Philosophically, there is only one choice for the advocacy community—to support CVC's efforts to request the supplementary budget and increase the overall program funds. The compensation program is essential in order to restore public safety and protect all of Washington State's residents and communities from the effects of crime. Author Mark Cohen says it best: "The crime victim compensation program is an extraordinarily important component of services to victims of crime. It is the safety net for victims without insurance to get medical care, therapy and other benefits intended to make them whole." This year, the advocacy community will continue to engage in political advocacy to assure that the Crime Victims Compensation Program has the necessary resources to fulfill the state's commitment and responsibility to restore every eligible victim to wholeness. Yet, we engage in this fight with an additional commitment to fair compensation rates for medical and mental health service providers and we do this with confidence because of the CVC program's own values, "We value providing the best access to appropriate medical and mental health benefits."

CVC or CSI: What Role Should Adjudicators Play?

"The legal theory behind compensatory damages is ostensibly to give the injured party a sum of money which will restore [her or him] as nearly as possible, to the position [s]he would have been in if the wrong had not been committed; in other words, to make the [victim] whole."¹ With these prevailing thoughts both creating the Washington State Crime Victims' Compensation (CVC) Program and supporting the theory behind compensation generally, it is difficult to understand why over 2,000 applications across all crime categories were denied in 2003.² Denial reasons include: no criminal act, no bodily harm, consent/provocation, no reasonable cooperation, lack of timely reporting and filing of a CVC application, and evidence that the crime occurred while the victim was committing a felony. Although denials can be overturned, applicants have only ninety days from the time they receive the definitive denial letter to make such appeals.

With statutory guidelines and rules regulating that Washington State Crime Victims' Compensation (CVC) program staff "give the greatest weight to the victim"³ and "construe liberally in favor of the victim,"⁴ advocates were caught off-guard by the recent numbers boasting an overall denial rate that exceeds 30 percent.⁵ The CVC program asserts they have a statutory obligation to prove a crime occurred, in order to make a claimant eligible for related medical costs and CVC benefits. From what OCVA staff and other advocates can assert by reviewing only 75 case summaries, CVC sought such proof by reviewing police reports and reviewing medical reports for forensic evidence. It is clear from the review of case summaries that CVC places a heavy reliance on statements made or opinions given by police. Some police reports also include comments from the accused perpetrator. Seemingly, these denials from perpetrators also influence the CVC process of determining whether a crime has occurred.

RCW 7.68.020 (2)

"Criminal act" means an act *committed or attempted* in this state which is (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or

gross misdemeanor under the laws of this state..."

RCW 7.68.020 (2) (ii)

"Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim."

WAC 296-30-010 page 55

"Criminal Act: an act defined in RCW 7.68.020, the occurrence of which can be verified by the department or which is reasonably credible...In evaluating evidence to determine verification of claimed criminal acts, the department will give greater weight to the quality, than to the quantity, of evidence. Evidence that can be considered for verification of claimed criminal acts includes, but is not limited to, one or more of the following: (1) police or other investigation reports. (2) Child protective services or other government agency reports. (3) Diaries or journals kept by victims and others. (4) Third party reports from school counselors, therapists and others. (5) Current medical examinations. (6) Medical or psychological forensic evaluations. (7) Legal and historical reports. (8) Current and past medical and mental health records. (9) Reports of interviews with the victim's family members, friends, acquaintances, and others who may have knowledge of pertinent facts."

Based on our reading of these statutes and rules, as well as other policies guiding the CVC program, OCVA believes the obligation of CVC to determine that a crime has been committed could be met by providing a case number to validate the existence of a police report and by the required signature on the CVC application.

The statutes, rules, and policies governing CVC are sound and congruent with the philosophy of aiding victims of crime as part of Washington State's public safety plan. Yet, staff at CVC have, on more than one occasion, defended that it is their duty to investigate claims. This declaration and practice is particularly troublesome since CVC adjudicators have not received the appropriate training or certification that would prepare or qualify them to serve as criminal investigators.

CVC's placement in the Department of Labor and Industries (L&I) lends itself to such an investigative

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(CVC or CSI, continued from page 6)

role. L&I, based on the responsibility of Workers Compensation, WISHA, and other L&I programs, seems to have misapplied their investigative role to the Crime Victims Compensation Program. Whereas other programs at L&I have the statutory authority to determine the validity of Worker's Compensation or WISHA claims, the role of investigation and evidence collection of crimes is rightfully a function of law enforcement and the criminal justice system. Subjecting victims and compensation claimants to additional investigation by CVC employees is beyond the scope and function of the CVC program.

The Department of L&I has recently instituted a reform measure to reduce fraud within its programs. Reducing fraud is a good thing. While there is no connection between the Department's anti-fraud initiative and the Crime Victims Compensation program, advocates wonder if the atmosphere is such that it contributes to over-vigilant attempts to legitimize CVC claims. OCVA reports that "very frequently we hear from victims who first say, 'they (CVC) don't seem to believe me.'" Considering the high rates of claim denials and the manner in which "investigations" to prove a crime has occurred are conducted – it is clear that statutory explanations of claim eligibility have been ignored.

Review of Denials

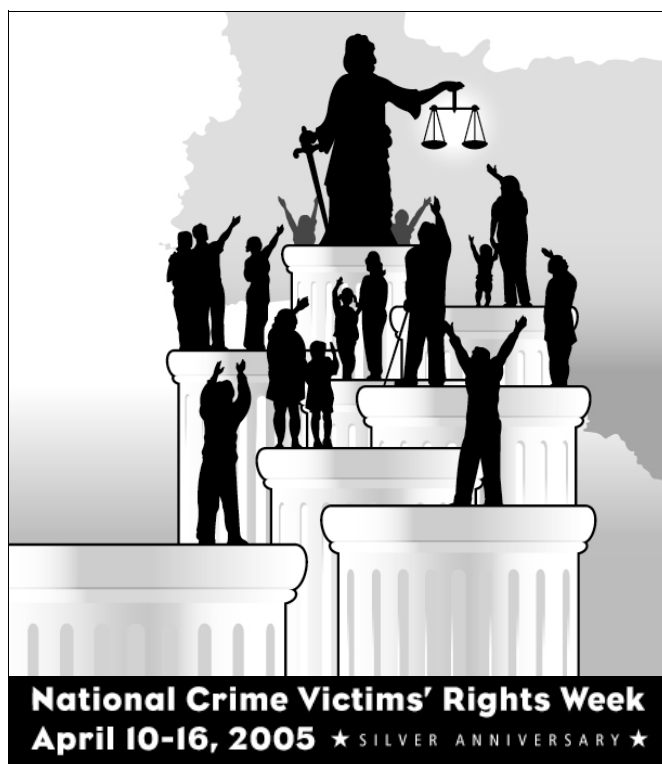
At an advisory group meeting, CVC staff reported that the denial rate for sexual assault claims was more than 30 percent. Later, OCVA, the Washington Coalition of Sexual Assault Programs (WCSAP) and the Washington Coalition of Crime Victim Advocates (WCCVA) learned that the denial rate on applications was more than 30 percent across all crime categories. After reviewing claim summaries, CVC management became aware of denials that may not have been warranted – or fair – or right. CVC responded by instituting a training program to improve internal quality control. At the same time, OCVA, WCSAP and WCCVA continue to work with CVC to undertake a more comprehensive case review process. To date, it appears—even in summaries—that applications have been wrongfully denied. The purpose of this review is to assess the reasons for the current denial rate and make recommendations to CVC in order to ensure every eligible crime victim receives the benefits to which they are statutorily entitled.

In 2001, prosecutors and advocates worked together to have an additional section added to the

CVC statutes and rules regarding civil commitment proceedings. Through these additions, victims of persons against whom the state initiates proceedings are now eligible for CVC benefits. Although OCVA has not yet included these types of claims in our reviews, the messages from the field have not been promising. Prosecutors have expressed sincere concern and frustration with the denial rates for claims involving victims who cooperate with these proceedings. One particular prosecutor, after working with a number of victims whose claims were denied and watching victims struggle with CVC's decisions, has stopped referring victims to the program entirely.

This extreme shift at CVC that moved staff from claims adjudicators to investigators and detectives is unacceptable.

The statutes and rules establishing the CVC program were created and written in a way that supports victims' participation in the criminal justice system. The criminal justice system is the only legitimate and appropriate place for detectives—any duplication of these efforts at CVC is unnecessary and not in line with the active scope of the program.



Taking A Stand: OCVA's Viewpoint

The Office of Crime Victims Advocacy is fortunate to operate in a movement of committed individuals and programs engaged in advancing victims' rights and voices in Washington. It is because of the advocacy community—a community comprised of staff, boards, administration, volunteers, and victim/survivors—that we are able to state our intentions and action items for continued progress with the CVC issues that are raised in this publication.

The Department of Labor and Industries must manage the Crime Victim Compensation Program in a manner that recognizes and responds to the unique aspects of administering a crime victim compensation program. This includes a depth of knowledge and understanding of victimology, trauma response, and a myriad of issues associated with crime victims.

In fact, the overall mission of CVC is compromised when it becomes subject to many of the Department reforms and concerns targeted primarily at better management of the Worker's Compensation program. One of the primary reform measures at L&I is a focus on reducing fraud and abuse. Key staff at CVC concur that false claims are highly unlikely and rarely submitted. Yet, many of the administrative decisions made this past year at CVC are more consistent with management decisions to reduce fraud at Worker's Compensation and have resulted in an inaccessible CVC program that is difficult to navigate for both victims and service providers. The mission of CVC is compromised when victims of crime are interrogated, treated as if their claims are false, and held to a standard of proof outside the statutory scope of the CVC program.

Because of these fundamental and programmatic compromises, OCVA will:

- Collaborate with CVC by coordinating a pilot review process with members of the CVC staff. This process will include all claims that are denied and still within the statutory timeframe to appeal the CVC denial. Medical pro-

viders, mental health specialist, and advocates will participate in this review.

- Participate in all efforts to see the CVC program receives the supplementary budget request and program budget increase it needs to sustain approved benefits and continues serving eligible victims of crime. We do so in full support of a Washington State crime victims compensation program. We do, however, expect that CVC staff and administration at the Department of Labor and Industries will continue working with OCVA and other advocates to make the necessary internal improvements and implement tools and processes designed to decrease the amount of inappropriate denials.
- Petition CVC to reconsider the lowered rates of compensation to medical and mental health service providers and restore the reimbursement rate to the 2004 levels.
- Continue to advocate directly for victims whose claims are denied by CVC. In addition to victims and survivors whose claims are still active, OCVA services are available to individuals whose claims have been adjudicated and are vulnerable to budget and program decisions that will be made during this legislative session.

This is an opportunity for the crime victim advocacy community to engage in efforts that will restore a critical piece of public safety. The Office of Crime Victims Advocacy is actively seeking solutions and progress at CVC. Your voice, expertise, and experience are a vital component of this strategic endeavor.

Repairing The Harm

"Financial compensation for victims of crime is one of the most important, tangible expressions of society's compassion for those among us who have been harmed by crime. While compensation cannot address all that victims suffer, it can provide a critical ingredient in repairing the harm."—Susan Herman, Executive Director, National Center for Victims of Crime.

Just as Washington State is examining our own Crime Victims Compensation program, a study of similar programs was occurring nationwide. *Repairing The Harm: A New Vision For Crime Victim Compensation in America* is a report recently put out by the National Center for Victims of Crime that analyzes the crime victims compensation system in the U.S. The report compiles observations based on the compensation response to the September 11th tragedy, and brings together the recommendations of the National Roundtable on Victims Compensation to provide insight into how our country's existing victims compensation programs can be improved.

The Roundtable addresses important questions in the report, such as the purpose of victims compensation. Is crime victims compensation a symbolic gesture, an act of charity, a form of justice, a form of crisis intervention, or is the program intended to make victims of crime financially whole? What sorts of losses and what types of crimes should victims compensation cover? How should crime victims compensation be funded, and what lessons can we learn from the September 11th response and from victims compensation programs internationally?

The report proposes ten core principles for a new vision of crime victims compensation:

(1) All victims should be eligible for compensation unless implicated in the crime.

Under current victim compensation programs, only victims of violent crimes are eligible for crime victim compensation in most states, including Washington. Violent crime victims account for

only one in four crimes in the United States, leaving 75% of crime victims ineligible for benefits from the start. Given that much of the funding for victims compensation comes from penalties paid by offenders of financial crimes, the fact that victims of those crimes cannot benefit from the program is ironic. In addition, in many states victims with criminal records are excluded from ever receiving victims compensation, regardless of whether they were implicated in the crime for which they are applying for benefits.

Cost of Crime Nationwide

Across the country, victims of violent crime and their families received victim compensation totaling \$460 million in 2002. 41 percent was for medical expenses, 26 percent was for lost wages and lost support in homicides, and 15 percent was for mental health counseling.

23 percent of all victims compensated nationwide were child victims of abuse. 26 percent of adult victims compensated were victims of domestic violence.

Source: National Center for Victims of Crime www.ncvc.org/ncvc/

(2) Compensation should recognize all types of economic losses.

In existing compensation programs, costs are categorized into allowable and non-allowable expenses, usually encompassing medical bills, therapy, and funeral costs. Many states also provide benefits for lost wages, and some provide for relocation, crime scene clean up, and transportation costs. Others don't. Providing a wider leeway for victims to explain individual needs would be similar to victims compensation programs in Australia, where victims are eligible for "additional expenses to assist in the recovery from the act of violence," which allows compensation officials discretion and flexibility.

(3) Compensation should recognize non-economic losses.

Only Hawaii, Tennessee and the Virgin Islands currently acknowledge non-economic losses to victims of crime to symbolize the pain and suffering of victims of crime. In Europe and Australia, non-economic losses are often acknowledged through victim compensation, as such losses were acknowledged after the September 11th attack. Many in the field believe that a symbolic award to acknowledge such losses are essential to validating and supporting the victim, and that even a relatively small amount of money can do much toward re-establishing the bond of trust between the victim and the community.

(4) Compensation programs should recognize victims' ongoing losses and not impose filing deadlines.

If limitations on the victims compensation system must be set, the members of the Roundtable recommended that restrictions be put on the total monetary amount of compensation per victim, rather than on when the victim may or may not receive the compensation or when they are required to file for it. Victims should be able to re-apply for compensation whenever new needs directly related to the crime arise; if ongoing treatment is required, there should not be a limitation on how long victim compensation should pay for it as long as the total amount awarded is still below the maximum cap. If police reports have been filed within a reasonable amount of time, as is currently required of almost all victim compensation programs, there is no reason to have an additional hurdle of a filing deadline for victim compensation as well.

(5) All victims should be informed about compensation and how to apply for it.

If victims are unaware that compensation programs are available, then the best program in the world will still fail to help them. Law enforcement, victim advocates, direct service providers, prosecutors and health-care professionals should all provide information to victims of crime about compensation programs available to them and be able to assist them in applying, and programs already mandated to inform victims should be held accountable for doing so.

(6) The federal funding base for victims compensation should be broadened to include tax revenues and other sources of funding.

The current funding base for compensation is reliant on court ordered fines paid by offenders; as such, it is unstable and restricted. Increasing the funding base for victims compensation would better reflect a national commitment to victim recovery and support, would increase the overall stability and infrastructure of compensation programs, and would allow the existing programs to reach more victims and provide better coverage.

(7) The victim compensation process should be fair, respectful, efficient, and easy to understand.

A clear and compassionate compensation process is essential to a victim's perception of community support and compassion. The process should be transparent, simple, and expeditious; a protracted and confusing process is likely to make the victim feel marginalized and can cause further feelings of victimization and isolation from the community.

(8) Tax relief should be provided as additional financial

The High Cost of Property Crime

Nationwide, the estimated average monetary loss from burglary in 2002 was \$1,549.

The average value of stolen motor vehicles was \$6,701.

The average loss in cases of arson was \$11,253.

In most states, including Washington, victims of property crime are not eligible for crime victims compensation.

**Source: National Center for Victims of Crime
www.ncvc.org/ncvc/**

(Repairing The Harm, continued from page 10)

assistance for helping victims recover from the harm caused by crime.

Generous tax relief was provided to survivors and victims of the September 11th attacks through the Victims of Terrorism Relief Act of 2001; crime-related healthcare costs and other expenses should be deductible from a victim's taxes, and restitution payments should be exempt from taxation as well.

(9) Compensation should be part of a broader system of support for victims of crime.

Full and comprehensive victims compensation, as outlined in the above recommendations, will help victims but will in no way replace the ongoing need for advocacy programs and support services. *Repairing the Harm* states that, "A broad societal commitment to helping victims rebuild their lives should provide multiple supports to victims, only one of which is a comprehensive system of financial compensation."

(10) State and federal legislators and policy makers should initiate a comprehensive examination of the United States system of crime victim compensation.

Although the United States has made great progress in the last thirty years toward recognizing and supporting the needs of victims of crime, there is a long way to go to make sure that our societal obligation to victims of crimes is adequately and compassionately met. Only by examining where the current system is flawed and determining areas that need improvement can change be implemented in the area of victims compensation. The work done by *Repairing the Harm* is only the first of what we can hope is a closer scrutinization of current practices and a step toward victims compensation reform nationwide.

To obtain your own copy of Repairing The Harm: A Vision For Crime Victim Compensation in America, visit the National Center For Victims of Crime website at www.ncvc.org/victimcomp.

Canadians Consider Therapeutic Consequences

What does the victim of a crime expect when filling out an application for a compensation program? This question is at the crux of a Canadian Journal of Women and the Law article printed in 2000. The authors spent two years discovering the expectation and therapeutic consequences of three different types of compensation programs: the Criminal Injuries Compensation Board (CICB), the Grandview Agreement, and civil litigation. For the purposes of using the most comparable data and information, we will focus primarily on the results and outcomes in the CICB process.

The authors argue that the law is a social force that may produce therapeutic or anti-therapeutic consequences. Simply, that victims have expectations upon entering legal processes and that they experience consequences upon completion. The authors were particularly interested in the ability of the applicants to "reconnect with ordinary life," a process of recovery described by Judith Herman. In the final stage of recovery, a victim of sexual abuse attains power and control, exhibits autonomy, recognizes their victimization and understands its effects, moves responsibility to the perpetrator, reclaims a grip on the outer world, and moves into social action or public awareness.

Eighty-seven survivors between the ages of 19-59 years old participated in the complete study. Forty-eight percent of the participants filed compensation claims. Ninety-eight percent of the participants were female. Telephone interviews were conducted to discuss personal experiences, therapeutic expectations, and perceptions of the outcomes.

In the sample group of forty-two female survivors of sexual assault, expectations of the compensation process fit into six categories. The authors assert, "On the surface, these professed goals are not entirely, nor even primarily, consistent with a model that presupposes that victims are not coping and that they require a legal process

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(*Canadians Consider*, continued from page 11)

in order to 'recover.' Rather, they are consistent with well persons seeking appropriate social responses to injustice."

Obtaining public affirmation of wrongdoing:

Eighty-two percent of participants expressed a need to be validated from a person of perceived authority that their experiences were hurtful and wrong.

"I needed someone to say that they know all the hurt I'd been through, all the wrong."

"I am seeking to be heard . . . to be able to speak about what had happened to me."

Justice-seeking: Seventy-two percent of participants felt they had been denied justice in other criminal justice systems and considered that the government compensation program may provide avenues for achieving some systems fairness.

"I always fell through the cracks of intervention. I felt it was time justice was done."

"Justice in the sense that I had been misled by the legal system and I thought there would be more justice in the CICB."

Obtaining closure: Most individuals who participated expressed a need to see an end—a natural place from which to begin again. While some individuals felt renewed, others felt more disenfranchised.

"After my hearing—the next day I said to my friend 'Something is different for me—I've let it go.'"

"It brings some kind of closure. Someone in authority believing you means a lot."

Money: Forty-one percent of respondents dis-

cussed receiving awards to pay for counseling, further education, and assist with family costs as a primary motivator for undergoing the compensation process. For most, compensation actually ranked "low on the agenda." CICB uses taxes, government money, and fines to support this program. Although they can, they rarely seek direct reimbursement from the perpetrators.

"I didn't really look to CICB for anything but money."

"My father . . . losing a dime would kill him more than having to do a day in jail."

Securing an apology: Twenty-five to thirty-eight percent hoped to receive an apology from the perpetrator or a responsible third-party.

"I was an innocent child and I was molested for years. I wanted them to apologize. I wanted rape to be on record. I wanted them to admit blame."

"An apology—that more than anything else is what I wanted and it was the one thing I didn't get."

Taking revenge: Twenty-five percent of those seeking compensation stated they did so to seek revenge. In the whole therapeutic sense, while revenge is not seen as particularly recovery-oriented, it is critical that sentiments expressed as revenge are considered as motivation for participating in a government reparations program—not necessarily as a process that may benefit the victim but as one that will pain the perpetrator.

"I just wanted someone to pay for what happened to me."

"I wanted to see my perpetrator suffer the way he made me suffer."

Not unlike Washington's compensation program,

(*Continued on page 13*)

(Canadians Consider, continued from page 12)

CICB is meant to be a victim-focused and victim-centered process. Yet, victims reported both emotional and physical consequences of participation. Emotionally, participants expressed a sense of loss of control over the process, mental anguish, depression, suicidal tendencies, feeling that the system was not dealing with them in a responsive and personal manner, frustration, and anger. Physically, individuals experienced headaches, insomnia, hypertension, diarrhea, vomiting, and other ailments that required hospitalization. Based on self-described reactions, the authors assert that symptoms of PTSD increase due to participating in a compensation process.

Overall, the CICB claimants received from \$5,000 to \$10,000. Thirty-four percent were satisfied with the monetary outcomes and felt it served as a fair acknowledgement of the impact.

"The adjudicator heard me, believed me. It gave me something I thought I would never have. It gave me 'someone believed me.'"

"Financially it took a burden off of me. Emotionally, someone gave me credibility for what happened."

There were those who expressed less satisfaction with the process.

"I felt kind of like I wasn't worth very much. The past six years didn't mean anything to them."

"I expected I would get an apology, healing . . . [that] people would presume I was telling the truth. I felt they thought I was fabricating it. I did not get the level of healing, money, or apology I wanted. I have enormous anger in me."

Most of those participating in the study sought more than simple compensation—they sought an outlet for healing. When the process was complete and their compensation checks delivered, however, the process did not deliver as expected.

"Money helps but does not heal."

"No amount of money can make up for what I experienced."

The authors conclude:

Therapeutic implications of compensation claims cannot be overstated or ignored...While compensation programs may feel their purpose is to discern eligibility, their missions must be aligned through a supportive process that understands claimants often enter the system for explicit therapeutic reasons...For these individuals who survived sexual abuse, success or failure was measured therapeutically more the fiscally...It is inaccurate to conceptualize and operate compensation schemes on the assumption that they exist only to provide monetary compensation...Furthermore, a compensation regime that does not take reasonable steps to address the therapeutic needs of claimants is one who cannot achieve its professed restitutionary goals.

Therapeutic Consequences of Civil Actions for Damages and Compensation Claims by Victims of Sexual Abuse. Bruce Feldthusen, Olena Hankivsky, and Lorraine Greaves. Canadian Journal of Women and the Law. 2000. Vol. 12, Number 1, pages 66-116.

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INFORMATION

The Office of Crime Victims Advocacy serves as a voice within state government for the needs of crime victims in Washington State.

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Endnotes

Victim Compensation

¹*This speech was originally published in the 2005 National Crime Victim Rights Week Resource Guide Sample Speech. U.S. Department of Justice. Office of Justice Programs. Office for Victims of Crime. The speech was edited to fit page restrictions. Additional information about Washington, particularly, was added. To get a copy of the Resource Guide, visit <http://www.ovc.gov/ncvrw/2005/welcome.html>.*

²Ibid.

Overview of Compensation in Washington

¹<http://www.lni.wa.gov/ClaimsInsurance/CrimeVictims/About/default.asp>

CVC Or CSI

¹Cohen, Mark. "Pain, Suffering, and Jury Awards: A Study of the Cost of Crime to Victims." *Law and Society Review*, Volume 22, Number 3. (1988).

²"2003_Summary." CVC Program Documents. 12/2/2003.

³RCW 7.68.060

⁴CVC Procedure 3.00A page 3. Effective 07-22-2001.

⁵"2003_Summary." CVC Program Documents. 12/2/2003.

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